

REMARKS

Claims 1-32 are pending in this application. Claims 1, 19, 27 and 30 are independent claims. Reconsideration and allowance of the present application are respectfully requested.

Claim Rejections under 35 U.S.C. §102(e) – Jones

Claims 1-15 and 27-30 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,879,600 to Jones et al. (hereinafter "Jones"). Applicants respectfully traverse this rejection, as set forth below.

MPEP §2131 sets forth the standard for a 35 U.S.C. § 102 rejection:

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *MPEP §2131 (quoting Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)). "The identical invention must be shown in as complete detail as is contained in the . . . claim." *Id. (quoting Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1051, 1053 (Fed. Cir. 1987)).

In addition, "the reference must be enabling and describe the applicant's invention sufficiently to have placed it in possession of a person of ordinary skill in the field of the invention." *In re Paulsen*, 30 F.3d 1475, 1479, 31 USPQ2d 1671, 1673 (Fed. Cir. 1994).

The 35 U.S.C. § 102(e) anticipation rejection of claims 1-15 and 27-29 is improper because the rejection does not meet all of the above criteria for the reasons and explanations set forth below.

Jones is directed to mobile station arbitration and hand-off between differently formatted computer and/or telecommunications networks. For a mobile station operating at a given location in which it can communicate according to a first protocol via a first-access system and a second protocol via a second access system, Jones teaches that the mobile station arbitrates between communicating real-time media according to the first protocol via the first-access system and communicating real-time media according to the second protocol over the first

protocol via the second-access system. (See Abstract of Jones).

Jones explains the meaning of "over the first protocol" with regard to FIG. 1, stating that:

[T]he outgoing voice content communicated from the mobile station 116 to the second access system 118 as outgoing-second-protocol voice content may comprise outgoing-first-protocol voice content encapsulated in headers of the second-protocol (hereinafter referred to as "outgoing-second-protocol-encapsulated-first-protocol voice content"). Alternatively, the outgoing-second-protocol-encapsulated-first-protocol voice content may comprise the outgoing-first-protocol voice content that, as opposed to being encapsulated, is encoded or otherwise converted into a transmission format according to the second protocol so as to produce outgoing-second-protocol-encoded- first-protocol voice content. (See col. 10, lines 15-27).

Further, as illustrated in FIG. 3 of Jones, mobile station 318 receives outgoing voice content from a user via a microphone (input/output device 312) and encapsulates/encodes it using a first-protocol speech coder/decoder 302. The first-protocol encapsulated/encoded data is then sent to the arbitration module 304. Using one or more arbitration policies, the arbitration module 304 arbitrates between engaging in a voice session according to the first protocol via the first-access-system 112 or a second voice session according to the second protocol over the first protocol via the second-access-system 118. (See, e.g., col. 14, line 47, through col. 15, line 3 of Jones).

That is, all outgoing voice content in Jones is initially formatted according to the first protocol. The first protocol formatted information can be subsequently transmitted 'as is' over the first access system 112, or can be further encapsulated/encoded within a second protocol format according to the second protocol (see following Jones col. 14, lines 33-57, with emphasis added).

The first-protocol transceiver 308 may include one or more processors and executable programmable code, both of which interface with one or more logic modules and a first-protocol transmitter/receiver module. When the first-protocol transceiver 308 receives from the arbitration module 304 outgoing first-protocol voice content, it may encode the outgoing-first-protocol voice content for transmission to the first-access node 122. For instance, in a CDMA-format public wireless network, the outgoing-first-protocol voice content may be CDMA encoded (i.e., fragmented and reassembled) for Direct Sequence Spread Spectrum (DSSS) spreading for transmission to a BTS. For incoming-first-protocol voice content received from the BTS, the first-protocol transceiver 308 may decode the DSSS spreading and relay the decoded incoming-first-protocol voice content to the arbitration module 304.

On the other hand, if the arbitration module 304 allocates the mobile station's resources to communicate the voice session to the second-access system 188, it sends outgoing-first-protocol voice content to the encapsulation module 306. With the mobile station's 116 resources allocated as such, when receiving un-encapsulated first-protocol voice content from the encapsulation module 306, the arbitration module 304 may relay it to the first-protocol speech coder/decoder 302.

As the module's name suggests, the encapsulation module 306 may encapsulate the first-protocol voice content in headers of another protocol. To facilitate encapsulation, the encapsulation module includes one or more processors and executable programmable code, which interface with at least one input for receiving first-protocol voice content and at least one output for providing second-protocol-encapsulated-first-protocol voice content.

As noted in the forgoing, because different transport systems are being used it is necessary to provide "second-protocol-encapsulated-first-protocol voice content." In contrast, claim 1 has been amended to recite that the first and second network connection are both TCP/IP." Accordingly, Jones at least fails to teach both transport systems being the same (i.e., TCP/IP) for the two network connections and clearly fails to teach both being TCP/IP connections. Independent claim 27 has been amended to recite similar features. Jones simply operates in a fundamentally different manner by formatting all outgoing information initially according to the first protocol, and having to change formatting for the second connection. As can be seen from FIG. 3 of Jones, all outgoing information necessarily passes through an extra encapsulation module 306, when the wireless device transmits using the second access system operating according to the second protocol.

Thus, Applicants submit that Jones fails to teach or suggest all the features of independent claims 1 and claims 27 and 30 have similar features. Independent claims 1, 27 and 30 are thus allowable over Jones. In addition, dependent claims 2-15 and 28-29 are similarly allowable over Jones at least for their dependence from an allowable base claim.

Therefore, Applicants respectfully request that this rejection of claims 1-15 and 27-29 under 35 U.S.C. §102 be withdrawn.

Claim Rejections under 35 U.S.C. § 103(a) – Jones in view of Dorenbosch

Claims 16-21, 31 and 32 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Jones in view of U.S. Patent Publication No. 2004/0028009 to Dorenbosch et al. (hereinafter “Dorenbosch”). Applicants respectfully traverse this rejection, as set forth below.

With regard to independent claim 19, the Examiner relies on Jones as teaching the feature of “a wireless communication device adapted to provide...” as recited therein. Applicants have amended claim 19 to recite that the various links “provide a Transfer Control Protocol/Internet Protocol (TCP/IP) connection to the destination host.” Accordingly, for the reasons discussed above with regard to claim 1, Applicants submit that Jones fails to teach or suggest at least this feature of claim 19.

Furthermore, Jones and Dorenbosch are not properly combinable. Jones is directed to a voice system that uses two different transport mechanisms for the CDMA and 802.11 connections, as discussed above. Dorenbosch, in contrast is directed to a specific transport protocol, stream control transmission protocol (SCTP), which is used to manage streaming applications in IP networks. However, the primary method of voice delivery in the CDMA network does not use an IP connection, as discussed.

As stated in MPEP § 2143.01, if the proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification. *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984). Further, if the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims prima facie obvious. *In re Ratti*, 270 F.2d 810, 123 USPQ 349 (CCPA 1959). Clearly, using SCTP taught by Dorenbosch in Jones would not be operable and would at least “change the principle of operation” of Jones.

Additionally, Dorenbosch teaches in using SCTP that two IP addresses are used for the wireless device to enable the two connections. In contrast, Applicants’ have further amended claim 1, for example, to include the feature that the wireless device uses the same designated IP address for both the first link and second link. Accordingly, even if combinable (which Applicants do not admit) Jones and Dorenbosch fail to teach all the claimed features.

Accordingly, Jones in view of Dorenbosch cannot render obvious, under 35 U.S.C. §103(a), Applicants' invention as presently claimed in independent claim 19. The nonobviousness of independent claim 19 also precludes the rejections of claims 20-21, which depend therefrom, because a dependent claim may not be rejected as obvious if the independent claim from which it depends is nonobvious. With regard to dependent claims 16-18, and 31-32 the patentability of independent claims 1 and 30 set forth above also precludes a rejection of claims 16-18 depending therefrom, because a dependent claim may not be rejected as obvious if the independent claim from which it depends is nonobvious. See In re Fine, 5, USPQ.2d 1596, 1600 (Fed Cir. 1988), *see also* MPEP § 2143.03.

Therefore, Applicants respectfully request that this rejection of claims 16-21 and 31-32 under 35 U.S.C. § 103(a) be withdrawn.

Claim Rejections under 35 U.S.C. § 103(a) – Jones in view of Dorenbosch, Moon

Claims 22-26 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Jones in view of Dorenbosch and in further view of U.S. Patent No. 6,804,532 to Moon et al. (hereinafter “Moon”). Applicants respectfully traverse this rejection, as explained below.

Moon as applied fails to cure the deficiencies of Jones and Dorenbosch, as discussed. Therefore, the patentability of independent claim 19 set forth above precludes a rejection of claims 22-26 depending therefrom, because a dependent claim may not be rejected as obvious if the independent claim from which it depends is nonobvious. See In re Fine, 5, USPQ.2d 1596, 1600 (Fed Cir. 1988), *see also* MPEP § 2143.03.

Therefore, Applicants respectfully request that this rejection of dependent claim 22-26 under 35 U.S.C. § 103(a) be withdrawn.

REQUEST FOR ALLOWANCE

In view of the foregoing, Applicant submits that all pending claims in the application are patentable. Accordingly, reconsideration and allowance of this application are earnestly solicited. Should any issues remain unresolved, the Examiner is encouraged to telephone the undersigned at the number provided below.

Please charge any fees or overpayments that may be due with this response to Deposit Account No. 17-0026.

Respectfully submitted,

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